

**\*\*NOT PRINTED FOR PUBLICATION\*\***

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

BRIAN SMITH, individually and as an heir  
and personal representative of the estates of  
Mary Greer and Willie Greer,

*Plaintiff,*

V.

All Successors-In-Interest and Assigns,  
Known or Unknown, of WASHINGTON  
MUTUAL BANK; and

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, AS TRUSTEE, in Trust for  
Registered Holders of Long Beach Mortgage  
Loan Trust 2006-9, Asset Back Certificates,  
Series 2006-9, or Successor(s)-In Interest,

*Defendants.*



**CIVIL ACTION NO. 9:20-CV-118**

## ORDER ACCEPTING REPORT AND GRANTING MOTION TO DISMISS

The Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, for consideration. On September 22, 2020, the magistrate judge issued his Report and Recommendation, recommending that the District Court grant Defendant's Motion to Dismiss based on res judicata. *See Report and Recommendation* (Doc. No. 11). On October 6, 2020, Plaintiff filed his objections to the Report. *Plaintiff's Objections to Report and Recommendation* (Doc. No. 12).

In accordance with 28 United States Code § 636(b), the Court conducted a *de novo* review of the magistrate judge's findings, the record, and the applicable law in this proceeding. After review, the Court finds that Judge Giblin's findings and recommendations should be accepted.

Plaintiff's objections do not contain specific objections to Judge Giblin's findings, instead he attaches a Certificate of Fact from the Office of the Secretary of State. *See Plaintiff's Objections to Report and Recommendation*, at 4 (Doc. No. 12). The time to submit evidence related to his claim was when he first filed suit on May 6, 2015<sup>1</sup>. Plaintiff had his day in court, and he has not stated why Judge Giblin's findings and recommendations are erroneous as required by the statute. Therefore, Plaintiff's objections (Doc. No. 12) are overruled because he has failed to file specific objections to Judge Giblin's findings and recommendations as required. FED. R. CIV. P. 72; *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

For the reasons set forth above, Plaintiff's objections are overruled. The Court accordingly agrees with the magistrate judge's findings. Therefore, it is **ORDERED** that the Report and Recommendation (Doc. No. 11) is **ACCEPTED** and Defendant's Motion to Dismiss (Doc. No. 5) pursuant to Federal Rule of Civil Procedure 12(b)(6) is **GRANTED**.

So ORDERED and SIGNED, Nov 23, 2020.



Ron Clark  
Senior Judge

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<sup>1</sup> *Brian Smith, Individually and as Personal Representative of the Estate of Mary Greer, Deceased, and Cassie Smith v. Select Portfolio Servicing, Inc. and Long Beach Mortgage Loan Trust 2006-9 a/k/a Long Beach Securities Corp.*, Civil Action No. 9:15-cv-00061-RC-KFG (E.D. Tex., Lufkin Division).